

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Diane and Lyle Hawn,**

Petitioners-Appellants,

**v.**

**Polk County Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 09-77-1481  
Parcel No. 090/04424-000-000**

On September 9, 2010, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Diane Hawn, was present and self-represented. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco as its legal representative. Both parties submitted evidence in addition to the certified record in support of their position. The Appeal Board having reviewed the entire record, heard the testimony and being fully advised, finds:

*Findings of Fact*

The Hawns are the owners of a residentially classified, single-family residence located at 200 Glenview Drive, Des Moines, Iowa. The property was built in 1971, and had an addition in 1989. The effective year built is reported as 1975. The property has 1798 square feet of total living area and a 576 square-foot detached garage. There is an 1133 square-foot basement with 45 square feet of low-quality finish. The property also has 522 square feet of deck area, 504 square feet of patio area, and one fireplace. The site is 24,800 square feet.

Hawn protested to the Polk County Board of Review regarding the 2009 assessment. The January 1, 2009, total assessment of Hawn's property was \$288,100, allocated as follows: \$79,100 in land value and \$209,000 in improvement value.

The Hawn's protest was based on the following grounds: 1) that the assessment is not equitable as compared with the assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a) and; 2) there has been a downward change in the value since the last assessment under sections 441.37(1) and 441.35(3). In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and consider the claim of over-assessment, under section 441.37(1)(b). The Board of Review provided partial relief and reduced the January 1, 2009, total assessment to \$278,900, allocated as follows: \$79,100 in land value and \$199,800 in improvement value.

In their appeal to this Board, the Hawn's reasserted the same grounds, and sought relief to a total assessed value of \$238,100.

Diane Hawn provided four properties as equity comparables. Hawn also offers these properties for market value comparison. The properties are located at 3715 River Oaks Drive, 3900 River Oaks Drive, 3901 River Oaks Drive, and 210 Glenview Drive.

According to the property record card, 3715 River Oaks Drive sold in April 2009 for \$255,000 and had a January 1, 2009 assessment of \$254,900. There is no evidence presented which would indicate the sales price for this property is not an arm's length transaction and as such we reasonably assume it reflects fair market value. Although slightly after the January 1, 2009, assessment date, the April 2009 sale indicates the assessment is at fair market value.

The property record card for 3900 River Oaks Drive indicates a sale in June 2009 for \$200,000 and a subsequent sale in February 2010 for \$280,000. Hawn testified the June 2009 sale was reflective

of a property that “needed a lot of work.” According to Hawn, the property had been occupied by heavy smokers and nothing had been done to the property for many years. The property was in need of new windows, a kitchen, and general cleanup/updating. We do not consider this property a reliable equity comparable due to the condition of the home at the time of the June 2009 sale.

The property record card for 3901 River Oaks Drive indicates a sale in August 2008 for \$262,450, and the January 1, 2009 assessed value was \$266,600. Because there is no reason to question the sales price, it is assumed to represent market value, which would indicate a sales ratio of 98.5%, however this information is not relevant as there is no comparison between this property and the subject’s ratio. Hawn did not provide a January 1, 2009 market value opinion for comparison to their January 1, 2009 assessment in order to prove inequity. In regards to a market value claim, the Hawns did not make any comparisons between this property and their own, adjusting for any differences and concluding a market value opinion.

Hawn’s final equity argument was in regards to the property located at 210 Glenview Drive which abuts the subject property. As Hawn pointed out, the property record card indicates the improvements at 210 Glenview, although have some differences, overall are very similar to the subject improvements. Yet this property had a total assessment of \$269,200 compared to their total assessment of \$278,900. We agree with this assessment; however Hawn fails to offer a market value for the property at 210 Glenview Drive in support of her equity claim.

We consider 3715 or 3900 River Oaks Drive less reliable equity and/or market value comparables due to the sale dates for both properties being after the January 1, 2009 assessment date. We give most weight to sales of comparable properties occurring prior to the January 1, 2009 assessment date.

Diane Hawn offered four exhibits to this Board, two of which were objected to by the Board of Review on relevancy. The exhibits objected to include a price adjusted market analysis and



comparable sales currently on the market. The price adjusted comparative market analysis (CMA) compares four properties to the subject property, adjusting for differences and concludes a range of value from \$209,515 to \$251,785. All four sales offered in this analysis occurred between September 2009 and June 2010, with three of those four sales occurring in 2010. While the exhibit was admitted, we give no weight to the CMA based upon all of the sales data occurring after the January 1, 2009, assessment date. Likewise, exhibit three is a listing of “comparable houses currently on the market”; all were listed between November 2009 and August 2010. Again, we give no weight to these properties as evidence of market value effective January 1, 2009.

Polk County Deputy Assessor Jim Willett testified on behalf of the Board of Review. The Board of Review offered no new evidence and relied solely upon Willett’s testimony and the certified record. We note that the certified record contains a 2009 market estimate for the subject property indicating a value of \$269,200. This value conclusion is based upon a mass-appraisal market valuation model. The market estimate reported reflects changes made to the property record card since the Board of Review hearing, which Willett testified, corrected errors. The corrections include reducing the basement area (eliminating basement area under the additions), a small change downward in the gross living area, adding patio and deck areas, and adding basement finish.

Additionally, the certified record includes protest comparables selected by the assessor’s office for the Board of Review. Five properties were selected, compared and adjusted for differences to the subject property. All five sales occurred between January 2007 and August 2008. We note the sales prices for four of the five comparables are less than the assessed values. The adjusted range of value for the properties, rounded is \$248,000 to \$273,500 with four of those properties adjusting less than \$262,000. The final indicated value based upon this analysis is \$260,390. Mr. Willett testified that this was a weighted value of all five comparables, and is based on the corrections made to the property since the Board of Review hearing. We consider this analysis to be the most reliable evidence

submitted and a credible indicator of market value for the subject as of January 1, 2009. Mr. Willett testified that the value indicated by the comparables is more supported than the \$278,000 assigned by the Board of Review. We agree.

Ms. Hawn has concerns that the Board of Review relied upon 2007 sales to determine the January 1, 2009 assessment. Hawn asserts in a September 17, 2010, rebuttal letter to this Board that “later in 2008 the economy, stock market and housing market plummeted.” Ms. Hawn fails to demonstrate that values plummeted in the Des Moines area and specifically her neighborhood. Hawn also asserts that two “reputable appraisal firms” state they would not use sales dated prior to January 1, 2008, for a January 1, 2009, assessment. However, Ms. Hawn failed to provide any better 2008 sales to support her claims.

After reviewing all the evidence, we find Hawn has failed to prove inequity; however the preponderance of the evidence presented supports a finding that the Hawn’s property is assessed for more than authorized by law. We give the most consideration to the assessors protest comparable analysis which indicates a value of \$260,390 after all corrections were made to the property record card.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or



additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The Hawn's offered four properties as equity comparables, however Hawn made no analysis comparing these properties to the subject property. While several of the properties submitted as equity comparables had sold, the sales occurred sometime after January 1, 2009, and can not be assumed to represent the market value of those properties as of the assessment date. The Hawn's failed to prove their property is inequitably assessed.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Board of Review provided an analysis of protest comparables, concluding the market value of the subject property to be \$260,390 as of the January 1, 2009 assessment.

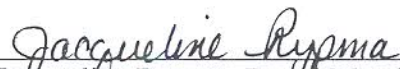
In the opinion of the Appeal Board, this evidence supports the claim that the property is assessed for more than the value authorized by law. Therefore, we modify the January 1, 2009, assessment of the property located at 200 Glenview Drive, Des Moines, Iowa, as determined by the Polk County Board of Review.

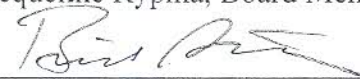
THE APPEAL BOARD ORDERS the assessment of Diane and Lyle Hawn's property located at 200 Glenview Drive, Des Moines, Iowa, be modified to a total value of \$260,390, representing \$79,100 in land value and \$181,290 in improvements as of January 1, 2009.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 14 day of October, 2010

  
Karen Oberman, Board Chair

  
Jacqueline Rypma, Board Member

  
Richard Stradley, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-14</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>[Signature]</i></u>